IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 1268 OF 2006

IN

SECOND APPEAL (ST.) NO. 33605 OF 2003

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. S.G.Karandikar for the Applicant.

None for the Respondents.

CORAM: S.B.DESHMUKH, J.

DATE : 24TH AUGUST,2006

P.C.:

Heard learned Counsel appearing for the applicant.

2. The applicant, had filed the second appeal (stamp) no.33605 of 2003 in this Court. The office of this Court, has, raised some objections. These objections were duly notified. Obviously, they were not removed and,

therefore, the Additional Registrar of this Court refused registration of the second appeal on 26th October, 2005. On that date, conditional order was passed by the Additional Registrar granting time till 23rd November, 2005 for removal of the office objections.

3. Since, it was a conditional order and not complied with by the applicant, the second appeal filed by the applicant came to be dismissed.

4. Learned Counsel for the applicant has invited my attention, towards the statement made in paragraph no.1 of the civil application, that the objection raised by the office, was regarding signature of the appellant on vakilpatra. According to the office objection, it was not the signature of the applicant / appellant. In this civil application, verified statement, appears to be regarding signature on vakilpatra of

the present applicant / appellant himself. The delay is explained, as, advocate for the applicant did not notice the conditional order passed by the Additional Registrar on 26th October, 2005.

5. The registration of the present appeal was refused before the second appeal was admitted. Since the respondents were not given notice, no notice is issued to the respondent and in the absence of the respondent this civil application is considered favourably.

6. Having regard to the explanation tendered for the delay of 263 days, in my view, this application can be allowed.

7. This civil application, accordingly, is allowed. Delay of 263 days in filing the civil application, for setting aside the order passed by

the Additional Registrar dated 26th October, 2005 is condoned. The conditional order passed by the Additional Registrar on 26th October, 2005 is quashed and set aside, since the learned Counsel for the applicant makes a statement that now the office objection is removed.

8. Office to place the second appeal for admission after two weeks.

Sd/-

(S.B.DESHMUKH, J.)